



UNITED STATES PATENT AND TRADEMARK OFFICE

67

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,343	02/28/2002	Jeffrey J. Gratz	273.018	1365

23598 7590 02/09/2005

BOYLE FREDRICKSON NEWHOLM STEIN & GRATZ, S.C.
250 E. WISCONSIN AVENUE
SUITE 1030
MILWAUKEE, WI 53202

EXAMINER

MAI, TRI M

ART UNIT	PAPER NUMBER
----------	--------------

3727

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/085,343

Applicant(s)

GRATZ, JEFFREY J.

Examiner

Tri M. Mai

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-6,9,10 and 15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-2,4-6, 9-10, and 15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

1. Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 is dependent on a canceled claim.

2. Claims 1-2, 4-6, 9-10, and 15 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 6-7, 9-14, and 19-20 of copending Application No. 09/836769. Although the conflicting claims are not identical, they are not patentably distinct from each other because It would have been obvious to one of ordinary skill in the art to provide the first object receiving cradle opens in opposite direction to the second opposite direction.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

3. Claims 1, 2, 4-6, 9, 10, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Emery (836769). Emery teaches 1st, and 2nd set of ribs projecting from the first side of the elongated member each rib is at portion 70 in Emery, and 1st and second ribs projecting from the second side of the elongated member at portions 52. Note there are receiving cradles between the ribs as shown in Fig. 3. (see notes in copending application 09836769)

4. Claims 1-2, 4-6, 9-10, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Williams (2808189). Williams teaches 1st, and 2nd set of ribs projecting from the first side of the elongated member each rib is at portion 107, and 1st and second ribs projecting from the second side of the elongated member at portions 115. See drawings. With respect to the object

Art Unit: 3727

receiving cradle, it is noted that the depressions and projections in Williams can receive small objects. All set forth in the claims are two sets of projections and a plurality of depressions.

These structures are clearly taught in Williams.

5. Applicant's arguments filed 10/15/04 have been fully considered but they are not persuasive. Applicant's main argument is that either Williams or Emery fails to teach the object-receiving cradle. It is noted that there are depressions between the ribs in either Williams and Emery. Note that there are cradle at 109 in Williams, and note the depression at 52 in Emery. The term "object receiving cradle" does not impart any structure over the depressions in either Williams or Emery.

Furthermore, as set forth in the previous Office Action. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. There is no structure different between the claimed object receiving cradles and the depressions in either Williams or Emery.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W Young can be reached on (571)272-4549. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3727

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tri M. Mai
Primary Examiner
Art Unit 3727

